

Calendar No. 985

S. 3792

[Report No. 93-1024]

IN THE SENATE OF THE UNITED STATES

JULY 22, 1974

Mr. STEVENSON, from the Committee on Banking, Housing and Urban Affairs, reported the following bill; which was read twice and ordered to be placed on the calendar

A BILL

To amend and extend the Export Administration Act of 1969.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

SECTION 1. This Act may be cited as the “Export Ad-
ministration Amendments of 1974”.

6 SHORT SUPPLY POLICY

7 SEC. 2. Section 3 (2) (A) of the Export Administra-
8 tion Act of 1969 is amended by striking out "abnormal".

9 MONITORING

10 SEC. 3. (a) Section 4 of the Export Administration
11 Act of 1969 is amended by redesignating subsections (c)

1 through (e) thereof as subsections (d) through (f), re-
2 spectively, and by inserting after subsection (b) a new
3 subsection (c) as follows:

4 “(c) (1) To effectuate the policy set forth in section
5 3 (2) (A) of this Act, the Secretary of Commerce shall
6 monitor exports, and contracts for exports, of any article,
7 material, or supply (other than a commodity which is
8 subject to the reporting requirements of section 812 of the
9 Agricultural Act of 1970) when the volume of such ex-
10 ports in relation to domestic supply contributes, or may
11 contribute, to an increase in domestic prices or a domestic
12 shortage, and such price increase or shortage has, or may
13 have, a serious adverse impact on the economy or any
14 sector thereof. Information which the Secretary requires to
15 be furnished in effecting such monitoring shall be confiden-
16 tial, except as provided in paragraph (2) of this subsection.

17 “(2) The results of such monitoring shall, to the extent
18 practicable, be aggregated and included in weekly reports
19 setting forth, with respect to each article, material, or supply
20 monitored, actual and anticipated exports, the destination
21 by country, and the domestic and worldwide price, supply,
22 and demand. Such reports may be made monthly if the
23 Secretary determines that there is insufficient information
24 to justify weekly reports.”

25 (b) Section 10 of such Act is amended—

1 (1) by inserting “(a)” after “SEC. 10.”; and

2 (2) by adding at the end thereof the following:

3 “(b) (1) The quarterly report required for the first
4 quarter of 1975 and every second report thereafter shall
5 include summaries of the information contained in the reports
6 required by section 4 (c) (2) of this Act, together with an
7 analysis by the Secretary of Commerce of (A) the impact on
8 the economy and world trade of shortages or increased prices
9 for articles, materials, or supplies subject to monitoring under
10 this Act, (B) the probable duration of such shortages or
11 increased prices, (C) the worldwide supply of such articles,
12 materials, and supplies, and (D) actions taken by other
13 nations in response to such shortages or increased prices.

14 “(2) Each such quarterly report shall also contain an
15 analysis by the Secretary of Commerce of (A) the impact
16 on the economy and world trade of shortages or increased
17 prices for commodities subject to the reporting requirements
18 of section 812 of the Agricultural Act of 1970, (B) the
19 probable duration of such shortages or increased prices,
20 (C) the worldwide supply of such commodities, and (D)
21 actions being taken by other nations in response to such
22 shortages or increased prices. The Secretary of Agriculture
23 shall fully cooperate with the Secretary of Commerce in pro-
24 viding all information required by the Secretary of Commerce
25 in making such analysis.”.

1 (c) Section 5 (a) of such Act is amended—

2 (1) by striking out “hereunder” in the first sentence
3 and inserting in lieu thereof the words “or monitored
4 under this Act”; and

5 (2) by inserting immediately after such first sen-
6 tence the following: “Such departments and agencies
7 shall fully cooperate in rendering such advice and infor-
8 mation.”.

9 INTERNATIONAL COOPERATION TO SECURE ACCESS TO
10 SUPPLIES

11 SEC. 4. (a) Section 2 of the Export Administration
12 Act of 1969 is amended by adding at the end thereof the
13 following new paragraph:

14 “(5) Unreasonable restrictions on access to world sup-
15 plies can cause worldwide political and economic instability,
16 interfere with free international trade, and retard the growth
17 and development of nations.”

18 (b) Section 3 (3) (A) of such Act is amended by strik-
19 ing out “with which the United States has defense treaty
20 commitments”.

21 (c) Section 3 (5) of such Act is amended—

22 (1) by striking out the word “and” immediately
23 preceding clause (B) ; and

24 (2) by striking out the period at the end thereof
25 and inserting in lieu thereof a comma and the following:

1 “and (C) to foster international cooperation and the
2 development of international rules and institutions to
3 assure reasonable access to world supplies.”.

4 HIGH TECHNOLOGY EXPORTS

5 SEC. 5. (a) Section 4 of the Export Administration Act
6 of 1969, as amended by section 3 of this Act, is amended
7 by adding at the end thereof the following new subsection:

8 “(g) Any export license application required by the
9 exercise of authority under this Act to effectuate the policies
10 of section 3 (1) (B) or 3 (2) (C) shall be approved or dis-
11 approved not later than ninety days after its submission.
12 If additional time is required, the Secretary of Commerce or
13 other official exercising authority under this Act shall inform
14 the applicant of the circumstances requiring such additional
15 time and give an estimate of when his decision will be
16 made.”

17 (b) Section 5 (c) (1) of such Act is amended by strik-
18 ing out the next to the last sentence thereof and inserting in
19 lieu thereof the following: “Each such committee shall con-
20 sist of representatives of United States industry and Govern-
21 ment, including the Departments of Commerce, Defense, and
22 State, and, when appropriate, other Government departments
23 and agencies.”.

24 (c) Section 5 (c) of such Act is amended by adding at
25 the end thereof the following new paragraph:

1 “(5) To facilitate the work of the technical advisory
 2 committees, the Secretary of Commerce, in conjunction
 3 with other departments and agencies participating in the
 4 administration of this Act, shall disclose to each such com-
 5 mittee adequate information, consistent with national se-
 6 curity, pertaining to the reasons for the export controls
 7 which are in effect or contemplated for the grouping of ar-
 8 ticles, materials, and supplies with respect to which that
 9 committee furnishes advice.”.

10 (d) Not later than one year after the date of enactment
 11 of this Act, the Secretary of Commerce shall include in a
 12 quarterly report under section 10 of the Export Administra-
 13 tion Act of 1969 an accounting of actions taken to expedite
 14 the processing of export license applications as required
 15 under section 4(g) of the Export Administration Act of
 16 1969.

17 OPPORTUNITY TO COMMENT ON LICENSING

18 SEC. 6. Section 5 (b) of the Export Administration Act
 19 of 1969 is amended—

20 (1) by inserting “(1)” after “(b)”; and

21 (2) by adding at the end thereof the following:

22 “(2) Upon imposing quantitative restrictions on exports
 23 of any article, material, or supply to carry out the policy
 24 stated in section 3 (2) (A) of this Act, the Secretary of
 25 Commerce shall publish a notice in the Federal Register in-

1 viting all interested parties to submit written comments
2 within fifteen days from the date of publication on the impact
3 of such restrictions and the method of licensing used to im-
4 plement them.”.

5 **TECHNICAL AND CONFORMING CHANGES**

6 **SEC. 7.** Section 4 (d) of the Export Administration Act
7 of 1969, as redesignated by section 3 of this Act, is amended
8 to read as follows:

9 “(d) Nothing in this Act or the rules or regulations
10 thereunder shall be construed to require authority or permis-
11 sion to export, except where required by the President to
12 effect the policies set forth in section 3 of this Act.”.

13 **HARDSHIP RELIEF**

14 **SEC. 8.** The Export Administration Act of 1969 is
15 amended by inserting after section 4 the following new
16 section:

17 **“PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT**
18 **CONTROLS**

19 “**SEC. 4A.** (a) Any person who, in his domestic manu-
20 facturing process or other domestic business operation, uti-
21 lizes a product produced abroad in whole or in part from a
22 commodity historically obtained from the United States but
23 which has been made subject to export controls, or any per-
24 son who historically has exported such a commodity, may
25 transmit a petition of hardship to the Secretary of Commerce

1 requesting an exemption from such controls in order to alle-
2 viate any hardship resulting from the imposition of such
3 controls. A petition under this section shall be in such form
4 as the Secretary of Commerce shall prescribe and shall con-
5 tain information demonstrating the need for the relief re-
6 quested.

7 “(b) Not later than thirty days after receipt of any peti-
8 tion under subsection (a), the Secretary of Commerce shall
9 transmit a written decision to the petitioner granting or
10 denying the requested relief. Such decision shall contain a
11 statement setting forth the Secretary’s basis for the grant
12 or denial. Any exemption granted may be subject to such
13 conditions as the Secretary deems appropriate.

14 “(c) For purposes of this section, the Secretary’s deci-
15 sion with respect to the grant or denial of relief from hard-
16 ship resulting directly or indirectly from the imposition of
17 controls shall reflect the Secretary’s consideration of such
18 factors as—

19 “(1) the adverse effect on employment within a
20 region or locality of the United States;

21 “(2) the probability of insolvency of the petitioner;

22 “(3) any interference with the importation of a
23 product which is essential to the petitioner’s or other
24 domestic business or which causes undue disruption of
25 the petitioner’s or other domestic business;

1 “(4) any burden or other adverse effect such con-
2 trols impose on a domestic business concern which man-
3 ufactures or assembles a product which includes a criti-
4 cal component produced outside of the United States
5 in whole or in part from a commodity subject to the
6 controls; and

7 “(5) any other factors which the Secretary deems
8 relevant.”.

9 INTERAGENCY REVIEW

10 SEC. 9. Section 4 of the Export Administration Act of
11 1969, as amended by sections 3 and 4 of this Act, is amended
12 by adding at the end thereof the following new subsection:

13 “(h) (1) The Congress finds that the defense posture
14 of the United States may be seriously compromised if the
15 Nation’s goods and technology are exported to a controlled
16 country without an adequate and knowledgeable assessment
17 being made to determine whether export of such goods and
18 technology will significantly increase the military capability
19 of such country. It is the purpose of this section to provide
20 for such an assessment and to authorize the Secretary of
21 Defense to review any proposed export of goods or tech-
22 nology to any such country and, whenever he determines
23 that the export of such goods or technology will significantly
24 increase the military capability of such country, to recom-
25 mend to the President that such exports be disapproved.

1 “(2) Notwithstanding any other provision of law,
2 whenever a request for a license or other authority is required
3 by any person to export any goods or technology to any
4 controlled country, the appropriate export control office or
5 agency to whom such request is made shall notify the Secre-
6 tary of Defense of such request, and such office may not
7 issue any license or other authority pursuant to such request
8 prior to the expiration of the period within which the Presi-
9 dent may disapprove such export, or prior to the expiration
10 of the period within which the Congress may disapprove an
11 action of the President, if applicable. The Secretary of
12 Defense shall carefully consider all notifications submitted to
13 him pursuant to this subsection and, not later than thirty
14 days after notification of the request, shall—

15 “(A) recommend to the President that he disap-
16 prove any request for the export of any goods or tech-
17 nology to any controlled country if he determines that
18 the export of such goods or technology will significantly
19 increase the military capability of such country;

20 “(B) notify such office or agency that he will inter-
21 pose no objection if appropriate conditions designed to
22 achieve the purposes of this Act are imposed; or

23 “(C) indicate that he does not intend to interpose
24 an objection to the export of such goods or technology.

25 If the President notifies such office or agency, within thirty

1 days after receiving a recommendation from the Secretary,
2 that he disapproves such export, no license or other authori-
3 zation may be issued for the export of such goods or tech-
4 nology to such country.

5 “(3) Whenever the President exercises his authority
6 under this subsection to modify or overrule a recommenda-
7 tion made by the Secretary of Defense pursuant to this
8 section, the President shall submit to the Congress a state-
9 ment indicating his decision. The Congress shall have a
10 period of thirty calendar days of continuous session of both
11 Houses after the date on which the statement is transmitted
12 to the Congress to disapprove, by majority vote of both
13 Houses, the action of the President.

14 “(4) In determining whether the export of any goods
15 or technology to any controlled country will significantly
16 increase the military capability of such country, the Secre-
17 tary of Defense shall take into account all potential end
18 uses, and the likelihood of an end use other than the end
19 use indicated by the applicant for the export of such goods
20 or technology.

21 “(5) Effective on July 1, 1974, the removal of any
22 category of goods or technology requiring an export license
23 or other authorization shall require the approval of the
24 President.

25 “(6) The President is authorized, on behalf of the

1 United States, to disagree to any modification of the so-called
2 COCOM international lists (or interpretations thereof) if
3 he determines that such modification would likely result in
4 a significant increase in the military capability of any con-
5 trolled country.

6 “(7) As used in this subsection—

7 “(A) the term ‘goods and technology’ includes but
8 is not limited to—

9 “(i) machinery, equipment, durable goods, and
10 computer software;

11 “(ii) any license or other arrangement for the
12 use of any patent, trade secret, design, or plan;

13 “(iii) the so-called know-how or knowledge of
14 any individual, firm, corporation, or other entity;

15 “(iv) assistance in planning and joint venture
16 arrangements; and

17 “(v) arrangements under which assistance is
18 provided in developing a manufacturing capability,
19 including so-called turnkey arrangements;

20 “(B) the term ‘export control office’ means any
21 office or agency of the United States Government whose
22 approval or permission is required pursuant to existing
23 law for the export of goods or technology; and

24 “(C) the term ‘controlled country’ means a Com-
25 munist country as defined in section 620 (f) of the For-

1 eign Assistance Act of 1961, except for Yugoslavia,
2 Romania, and Poland.

3 “(8) The Secretary of Defense shall submit to the
4 Congress every six months a report on the implementation
5 and administration of this section.”

6 EXPORT FEES AND LICENSES

7 SEC. 10. Section 4 of the Export Administration Act
8 of 1969, as amended by sections 3, 4, and 9 of this Act, is
9 amended by adding at the end thereof the following:

10 “(i) In imposing export controls to effectuate the policy
11 stated in section 3 (2) (A) of this Act, the President’s au-
12 thority shall include, but not be limited to, the imposi-
13 tion of export license fees and the auction of export licenses.”

14 EXPIRATION DATE

15 SEC. 11. Section 14 of the Export Administration Act
16 of 1969 is amended by striking “July 30, 1974” and insert-
17 ing in lieu thereof “June 30, 1977”.

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98th CONGRESS
2^d Session

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By Mr. STEVENSON

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